Calendar No. 143

102D CONGRESS *1st Session*	SENATE	REPORT 102-96

MOTOR CARRIER SAFETY ASSISTANCE PROGRAM REAUTHORIZATION ACT OF 1991

Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, submitted the following

REPORT

OF THE

SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ON

S. 631

JULY 2, 1991.—Ordered to be printed

Filed under authority of the order of the Senate of June 24 (legislative day, June 11), 1991

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Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, submitted the following

REPORT

[To accompany S. 631]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 631) to authorize appropriations for the Motor Carrier Safety Assistance Program, and for other purposes, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill as amended do pass.

PURPOSE OF THE BILL

The bill, as reported, provides grants to the States from the Highway Trust Fund for enforcement of specified motor carrier and hazardous materials transportation safety regulations. The Motor Carrier Safety Assistance Program (MCSAP) grant guidelines seek to provide uniform recordkeeping procedures for inspections, including the compilation of data bases on vehicle inspections, driver safety, and accident reports. The bill will expand the MCSAP program in 1993 by requiring the States to enhance oversight and enforcement activities in the areas of traffic enforcement, drug interdiction, and alcohol abuse. In addition, the States are required to enforce compliance with the Commercial Driver's License (CDL) Program and to encourage greater vehicle safety. The bill also calls for the States to designate a lead agency to administer MCSAP requirements. The bill also directs the Secretary of Transportation to issue regulations specifying tolerance guidelines for

ensuring compatibility of intrastate commercial motor vehicle safety law and the Federal Motor Carrier Safety Regulations (FMCSR). The bill also establishes drug-free zones around truck stops in which there would be increased penalties for those selling drugs. Finally, the Department of Transportation (DOT) is required to initiate a rulemaking to consider the need to adopt improvements in truck braking performance.

Background and Needs

HISTORY

Nearly 6,000 Americans are killed annually in heavy- and medium-sized truck and bus accidents. Over the last 9 years, Congress has addressed this problem by enacting several laws. The latest was the Motor Carrier Safety Act of 1990 (section 15 of Public Law 101–500). That legislation prohibited any trucking firm receiving a DOT unsatisfactory safety rating from hauling placarded loads of hazardous materials. Bus companies with unsatisfactory safety ratings are also prohibited from transporting passengers. In addition, DOT was to establish a program to ensure that commercial vehicles which fail roadside safety inspections do not return to the highway without fixing safety problems.

In 1986, as part of omnibus drug legislation (Public Law 99–570), Congress passed the Commercial Motor Vehicle Safety Act of 1986, legislation reported by the Committee. This law created the CDL system. Under this law, commercial drivers are prohibited from using multiple licenses, a practice previously employed to hide bad driving records. In addition, the CDL Program requires all drivers to pass knowledge tests in order to obtain a CDL. Inexperienced drivers also must pass driving tests in the type of vehicle they plan to operate. A nationwide computer network, known as the Commercial Driver's License Information System (CDLIS), is being established to ensure that a commercial truck or bus driver's record is kept on a single CDL. All drivers must obtain CDL's by April 1992.

In 1982, Congress created MCSAP. The program provides grants to States for roadside safety inspections of commercial vehicles and drivers, as well as safety audits at the terminals of truck and bus companies. MCSAP annually funds about 1.6 million roadside inspections and about 10,000 safety audits. The current authorization expires at the end of fiscal year 1991. The administration has included MCSAP reauthorization language in its proposed highway bill (S. 610), which was introduced by request on March 7, 1991, by Senator Chaffee, with Senators Symms and Danforth as cosponsors.

CONGRESSIONAL RESEARCH SERVICE (CRS) STUDY

In anticipation of MCSAP's reauthorization, the Committee commissioned an extensive study of the MCSAP Program by CRS. The March 1991 CRS study found that MCSAP enjoys broad support from the administration, the States, and the trucking industry for its reduction of commercial vehicle accidents that cost lives and cause injuries and property losses. However, CRS also found that MCSAP could be strengthened significantly if its efforts were in-

creased in relation to the driver-related causes of commercial vehicle accidents.

CRS found that driver-related factors, such as reckless driving behavior, drug and alcohol use and fatigue are principal causes of commercial vehicle accidents. CRS cites an Office of Technology Assessment (OTA) study that found human error is the cause of over 60 percent of motor carrier accidents. In addition, a Federal Highway Administration (FHWA) sponsored study found that 95 percent of preventable accidents is related to driver factors.

CRS also found that greater use of technology by MCSAP inspectors would make the program much more effective. Scarce inspection dollars could be maximized if roadside inspectors could access data bases showing the past safety history of a driver, such as CDLIS, and the SAFETYNET system in which FHWA accumulates safety information on particular motor carriers' performance from roadside inspections and safety audits. CRS also believes that research and development are needed to advance the application of new technologies to MCSAP inspections.

WEIGHT ENFORCEMENT

Enforcement of the motor carrier weight limitations has become an issue in the reauthorization of MCSAP. To date, weight enforcement has not been a reimbursable expense under MCSAP—weight enforcement has been viewed as a road maintenance issue rather than a safety issue. The administration, however, has proposed that weight enforcement become a reimbursable MCSAP expense because of its concerns over the Nation's deteriorating highway system. DOT argues that overweight vehicles are a safety problem because crumbling roads, which overweight vehicles impact, are a safety hazard and overweight loans are inherently unstable.

CRS and the staff of the National Transportation Safety Board (NTSB), however, both expressed concerns about allowing weight enforcement to be an eligible expense under MCSAP. It also should be noted that, unlike the conduct of safety inspections, weight enforcement is a moneymaking activity for the States. As a result, States are spending a lot of money to conduct weight checks. Even small to medium-size States spend as much as $10 million annually on weight enforcement.

As one of the options outlined in its report, CRS has suggested, that weight enforcement should be a MCSAP reimbursable expense only if it is conducted in connection with a safety inspection. Moreover, CRS raised major questions about the cost-effectiveness of reimbursements for weight inspections at fixed-weight facilities. If the maximum safety benefit is desired CRS suggested the option of reimbursing inspections using portable weigh stations on back roads that are likely to catch those attempting to circumvent the fixed facilities. Trucks attempting to avoid fixed-weight stations by using back roads frequently have drivers who have been driving for more time than the legal limit (10 consecutive hours) or are operating poorly maintained vehicles. The Committee agrees with the CRS analysis, and this agreement is reflected in the reported bill.

INTEGRATION OF TRAFFIC ENFORCEMENT ACTIVITIES WITH MCSAP INSPECTIONS

The Committee believes that allowing traffic enforcement to be an eligible expense under MCSAP would ensure that it becomes a more comprehensive program. The Committee's decision to allow traffic enforcement activities as a reimbursable expense under MCSAP has the support of many of the organizations participating in or affected by MCSAP, including the American Trucking Associations (ATA), International Brotherhood of Teamsters, most of the members of the Commercial Vehicle Safety Alliance (CVSA), and the National Association of Governors's Highway Safety Representatives.

The additional MCSAP funds reserved for increased traffic enforcement activities should supplement existing State and local activities that are targeted to operators of commercial motor vehicles. These funds are provided under MCSAP to ensure: (1) that State program managers do not have to continue the present practice of applying to two different Federal agencies, FHWA and the National Highway Traffic Safety Administration (NHTSA), as is now the case to receive Federal funds to supplement their existing State motor carrier safety and traffic enforcement activities; (2) that traffic enforcement activities will be integrated more closely into other State motor carrier safety activities; (3) that essential SAFETYNET data can be easily collected; and (4) that quality inspections are conducted in conjunction with traffic stops. Providing increased Federal funds to promote increased State commercial traffic enforcement activities under MCSAP would avoid problems inherent in earmarking funds in the Highway Safety Grant Program under section 402, title 23 of the U.S. Code, a practice that NHTSA does not favor.

An expanded MCSAP enforcement community to conduct traffic enforcement activities followed up by an appropriate form of a motor carrier inspection would ensure that more MCSAP dollars are spent on driver-related causal factors. The Committee agrees with the CRS report on MCSAP that increased focus on the driver is critical. This expansion of the MCSAP program is most likely to reduce accident rates below current levels and improve the effectiveness and targeting of inspections.

INTRASTATE COMPATIBILITY

The FMCSR governs commercial drivers and vehicles who operate in interstate commerce. Under current law, in order to receive a MCSAP grant, a State must have intrastate regulations that are "compatible" with the FMCSR—this does not mean that the State regulations must be identical, but rather that they are roughly equivalent. Over the years, DOT has gradually tightened its interpretation of compatibility, which has caused several States (e.g., Texas and Florida) to withdraw from the MCSAP program for a period of time.

The CVSA, the organization that coordinates State MCSAP efforts, is concerned about strict interpretation of the compatibility standard. The CVSA points out, for example, that MCSAP is a relatively small program and thus State safety officials often are

unable to overcome interests which oppose the extension of safety rules to the classes of vehicles covered under the FMCSR (e.g., all vehicles above 10,000 pounds).

The Committee believes a balance must be struck between the need for greater uniformity of enforcement and the continued participation of most, if not all, States in the MCSAP program.

Legislative History

On March 12, 1991, Senator Exon introduced and Senators Danforth and Kasten cosponsored, S. 631, the "Motor Carrier Safety Assistance Program Reauthorization Act of 1991" which was referred to the Committee.

On March 13, 1991, the Surface Transportation Subcommittee held a hearing to consider both the legislation and options from the CRS report requested by the Committee last year on ways to improve the MCSAP program.

The subcommittee heard testimony on S. 631 from FHWA, CRS, the CVSA, and from representatives of the ATA, the National Private Truck Council (NPTC), and the Owner-Operators Independent Drivers Association (OOIDA).

On May 14, 1991, the Committee met in open executive session to consider the bill. The Committee, by voice vote, agreed to an amendment in the nature of a substitute offered by Senator Exon, and without objection and subject to technical amendment ordered the bill, as amended, to be reported favorably.

Summary of Major Provisions

As reported, S. 631 authorizes DOT to make grants to eligible States for the enforcement of Federal or compatible State commercial motor vehicle safety rules and regulations. Additionally, the bill allows these grants to be used for enforcement of State or local traffic safety laws and regulations designed to promote the safe operation of commercial motor vehicles.

MCSAP GRANT REQUIREMENTS

In order to receive a MCSAP grant, a State must submit annually a plan to the Secretary of Transportation (Secretary) which indicates that the State will assume responsibility for enforcing Federal motor carrier safety rules, regulations, standards, and orders, or compatible State rules on subjects including commercial vehicle brakes and other equipment, maximum hours of service for drivers, and commercial motor vehicle alcohol and controlled substances awareness and enforcement, including interdiction of illegal shipments. The bill requires that, to receive approval, a State plan must designate a lead agency to administer the plan, use uniform forms for recordkeeping and inspections, and, among other requirements, participate in data bases on drivers, vehicle inspections, and traffic accidents. The bill also seeks to strengthen the program, as of fiscal year 1993, by requiring a State to give satisfactory assurances that it will promote enforcement in the areas of drug interdiction, drug and alcohol enforcement, CDL enforcement, and traffic safety enforcement in relation to commercial vehicle safety and hazardous materials efforts. During fiscal year 1992, a State may

amend its State enforcement plan to receive reimbursement for any of the activities subject to the new State plan requirements, including traffic enforcement activities. The bill requires DOT to make a written evaluation every 3 years of each State's performance under MCSAP, including consideration of a State's performance of the new plan requirements.

WEIGHT ENFORCEMENT

In the area of weight enforcement, the bill requires that a State maintain, in each current fiscal year, an average of its weight enforcement expenditures over the previous 3 years, in order to use MCSAP funds for weight enforcement. To receive MCSAP reimbursment, the bill requires that a State couple weight enforcement with a safety inspection and conduct the enforcement at locations other than fixed-weight facilities, such as at specific geographic locations where weight is a particular safety concern, or on containers being loaded and unloaded at seaports.

STATES' REIMBURSABLE COSTS

The bill requires the Secretary to reimburse eligible States up to 80 percent of the costs of developing and implementing MCSAP. Each fiscal year, the bill allows the Secretary to devote a small percentage of the MCSAP funds for the training of non-Federal employees and the development of training material. In order to approve a plan, the bill requires that a State maintain a level of motor carrier safety funding which does not fall below an average of the previous 3 fiscal years, exclusive of Federal funds and State matching funds required to receive Federal funds.

FUNDING LEVELS

The funding levels available to the Secretary out of the Highway Trust Fund for MCSAP are not to exceed the following: $65 million in fiscal year 1992; $70 million in fiscal year 1993; $75 million in fiscal year 1994; $80 million in fiscal year 1995; and $85 million in fiscal year 1996. Previously, in fiscal years 1989, 1990, and 1991, MCSAP received $60 million, $60 million, and $62 million, respectively.

The bill increases funding to take into account inflationary costs that will raise the cost of MCSAP's current inspection and audit work, as well as increasing the funding for educating the public on safe usage of the public highways. The bill's funding levels specifically allocate increased funding to expand traffic-related enforcement efforts and to increase CDL checks and equipment. The funding also recognizes the need for additional research and development in order to ensure that new technologies, such as computerized data bases on drivers and vehicles, are utilized in MCSAP enforcement.

INCREASED CIVIL PENALTIES

The bill requires DOT to write regulations providing a minimum fine of $1,000 and a disqualification of 3 months for any driver who drives away from an inspection site without fixing a violation after the vehicle had been placed out of service. For repeat offenders,

DOT's regulations would have to establish a driver disqualification penalty of between 1 and 5 years, in addition to the minimum fine of $1,000. The bill also mandates that any motor carrier requiring a driver to violate an out-of-service order be subject to a civil penalty of up to $10,000.

INTRASTATE COMPATIBILITY

The bill contains a provision on compatability between interstate and intrastate motor carrier safety rules. Specifically, DOT would have to issue final regulations within 9 months after enactment to establish tolerance guidelines that clearly delineate what is a compatible State safety rule.

ENFORCEMENT OF BLOOD ALCOHOL CONCENTRATION LIMITS

Under the bill, DOT must initiate, within the 3 months of enactment, and complete within 12 months, a model program to enforce the .04-percent blood alcohol concentration limit standard established under the Commercial Motor Vehicle Safety Act of 1986.

DRUG FREE ZONES

The bill directs the establishment of a drug-free zone around truck stops by doubling the penalty levels for those persons convicted of selling drugs within 1,000 feet of a truck stop.

IMPROVED BRAKE SYSTEMS FOR COMMERCIAL MOTOR VEHICLES

The bill requires DOT to conduct a rulemaking on the need to adopt methods for improving truck braking performance. The required rulemaking would be comprehensive, addressing basic brake problems, such as the compatibility between tractor brakes and trailer brakes, methods of ensuring effective brake timing, and antilock braking systems.

COMPLIANCE REVIEW PRIORITY

The bill requires DOT to give high priority to conducting compliance reviews when drivers of particular motor carriers show a pattern of traffic safety violations.

ESTIMATED COSTS

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 5, 1991.

Hon. ERNEST F. HOLLINGS,
Chairman, Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for S. 631, the Motor Carrier Safety Assistance Program Reauthorization Act of 1991. Enactment

of S. 631 would not affect direct spending or receipts. Therefore, pay-as-you-go procedures would not apply to the bill.

If you wish details on this estimate, we will be pleased to provide them.

Sincerely,

ROBERT D. REISCHAUER,
Director.

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

1. Bill number: S. 631.

2. Bill title: Motor Carrier Safety Assistance Program Reauthorization Act of 1991.

3. Bill status: As ordered reported by the Senate Committee on Commerce, Science and Transportation, May 14, 1991.

4. Bill purpose: S. 631 would provide contract authority in annual amounts increasing from $65 million in fiscal year 1992 to $85 million in fiscal year 1996 for the motor carrier safety assistance program. These funds would be available for grants to states for programs to enforce federal and state rules and laws pertaining to commercial motor vehicle safety.

In addition, the bill would require the Department of Transportation to carry out several regulatory actions and studies and add two additional staff positions in the Federal Highway Administration (FHWA) to help implement this Act.

5. Estimated cost to the Federal Government:

[By fiscal year, in millions of dollars]

	1992	1993	1994	1995	1996
Motor Carrier Safety Assistance Program:					
Estimated budget authority	65	70	75	80	85
Estimated outlays	23	64	72	77	82

In addition to the costs shown in the above table, the FHWA would incur some costs to comply with the bill's mandates for studies and regulatory actions. These costs would probably total about $1 million during fiscal years 1992 and 1993. The bill would also require FHWA to add two additional headquarters positions beginning in fiscal year 1992, resulting in additional costs of about $100,000 per year.

The costs of this bill fall within budget function 400.

Basis of Estimate: The budget authority equals the contract authority provided in the bill. To estimate outlays, we assume that obligation limitations customarily established in appropriations acts would equal the budget authority. Because the outlays are subject to these limitations and to liquidating appropriations also included in appropriations acts, they would be considered discretionary. The outlay estimates are based on historical spending rates.

6. Pay-as-you-go considerations: The Budget Enforcement Act of 1990 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts through 1995. While S. 631 provides contract authority for the Motor Carrier Safety Assistance Program, the outlays for this program are considered discretionary, as ex-

plained above. Therefore, CBO estimates that enactment of S. 631 would not affect direct spending or receipts, and pay-as-you-go procedures would not apply to the bill.

7. Estimated cost to State and local governments: None.

8. Estimate comparison: None.

9. Previous CB estimate: None.

10. Estimate prepared by: Marjorie Miller.

11. Estimate approved by: C.G. Nuckols, for James L. Blum, Assistant Director for Budget Analysis.

Regulatory Impact Statement

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation, as reported.

NUMBER OF PERSONS COVERED

The legislation pertains to motor carrier operations, inspections of such operations, commercial motor vehicles with a gross vehicle weight rating of 10,001 pounds or more, trailer semitrailers, and drivers of commercial motor vehicles. The MCASP program covers all interstate operations of commercial motor vehicles with a gross vehicle weight rating of 10,001 pounds or more.

The FHWA estimates that in 1991 there are 220,000 motor carrier operations in the United States and in 1989 there were 7,023,833 registered vehicles with a gross vehicle weight rating of 10,000 pounds or more. In 1989, there were approximately 1,237,166 U.S.-registered tractor trailers, and 3,717,079 commercial trailers and approximately 5,000,000 commercial drivers operating in interstate commerce that will be covered by the legislation. The FHWA statistics reflect numbers of vehicles and drivers on the interstate system; however, the Committee recognizes that MCSAP program includes but is not limited to those operations.

The bill's provisions increasing the penalties for drug violations at truck stops would cover anyone in the United States distributing or possessing with intent to distribute a controlled substance in or on, or within 1,000 feet of, a truck stop.

Finally, the bill adds two additional staff positions in FHWA to assist in implementing the legislation.

ECONOMIC IMPACT

Section 2 authorizes appropriations of $65 million in fiscal year 1992, $70 million in fiscal year 1993, $75 million in fiscal year 1994, $80 million in fiscal year 1995, and $85 million in fiscal year 1996. The legislation takes into account inflationary costs for MCSAP's current inspection and audit work, as well as funding for programs to educate the public on safe usage of the highway system. These expenditures will help the program further reduce the significant costs—death and injury, property damage, and major traffic delays—which are associated with commercial vehicle crashes.

Section 3 requires DOT to develop improved formulas for allocating MCSAP funds that consider innovative, cost-effective programs to promote commercial motor vehicle and hazardous materials transportation safety.

PAPERWORK

The bill requires the Secretary to prepare a written evaluation every 3 years of each State's performance under MCSAP regarding weight enforcement. The Secretary has conducted such evaluations in the past, but this requirement will ensure they occur on a regular basis.

The legislation further requires DOT to issue regulations on imposing minimum fines and disqualifications for those individuals who leave inspection stations without repairing violations. The rulemaking also increases the penalties for carriers that force drivers to violate out-of-service orders.

Within 9 months of enactment, DOT must issue a rulemaking on compatibility between interstate and intrastate motor carrier safety rules. Increased compatibility can significantly reduce compliance costs, including paperwork, for motor carriers that are attempting to comply with these safety rules.

Section 6 of the bill requires DOT to initiate within 3 months of enactment, and complete, within 12 months, a model program to enforce a standard blood alcohol limit of .04 percent. This program will enhance the States' efficiency in removing drunk drivers from the highways.

Section 9 amends the Truck and Bus Safety and Regulatory Reform Act of 1988 by requiring a DOT rulemaking on the need to adopt improved braking performance standards for commercial motor vehicles, including an examination of antilock systems. Finally, the bill requires the Secretary to report to Congress within 18 months on the effectiveness of efforts in the private sector to ensure adequate training of entry-level drivers under the CDL program.

SECTION-BY-SECTION ANALYSIS

SECTION 1—SHORT TITLE

The short title of the bill is the "Motor Carrier Safety Assistance Program Reauthorization Act of 1991."

SECTION 2—MOTOR CARRIER SAFETY ASSISTANCE PROGRAM

This section amends chapter 4 of title 23 of the U.S. Code by adding a new section 411. Subsection (a) of this new section authorizes the Secretary to make grants to eligible States for the enforcement of Federal or compatible state commercial motor vehicle safety rules, regulations, standards, and orders, as well as State and local traffic safety laws and regulations.

Subsection (b) of this new section requires the Secretary to formulate procedures for a State to use when submitting its annual MCSAP plan. This section requires States to adopt and assume responsibility for enforcing Federal motor carrier safety rules, regulations, standards, and orders, including vehicle size and weight requirements and commercial motor vehicle alcohol and controlled substances awareness and enforcement (including interdiction of illegal shipments), or compatible State rules in these areas. This new section provides the Secretary with discretion to approve State plans which designate a lead State agency responsible for adminis-

tering the plan; ensure qualified personnel and adequate funds to administer the plan; provide a right of entry and inspection as well as maximum reciprocity for inspections conducted in other States through the use of a nationally accepted system; provide for the adoption of uniform reporting requirements and use of uniform recordkeeping and inspection forms; ensure participation in data bases on drivers, vehicle inspections, and driver compliance with traffic safety laws and regulations; and ensure that size and weight inspection activities will not diminish other safety initiatives. Additionally, this new section would require that a State plan give satisfactory assurances that the State would conduct effective activities in the area of drug and alcohol enforcement; provide training to MCSAP officials and employees in drug recognition techniques; promote CDL enforcement; ensure adequate enforcement of traffic safety; improve the enforcement of hazardous materials transportation regulations by encouraging more inspections of shipper facilities and vehicle loads; promote drug interdiction activities; and attempt to ensure that fines imposed and collected by the State will be reasonable and that the State will seek to implement the recommended fine schedule published by CVSA.

In the areas of commercial motor vehicle safety, and drug and weight enforcement, this new section specifies that a State maintain an average of the expenditures for the last 3 years, exclusive of Federal funds or State matching funds, in order to receive MCSAP funds for these purposes. If a State chooses to use MCSAP funds for weight enforcement, a State must couple that enforcement with a safety inspection and conduct enforcement at locations other than fixed-weight facilities, such as at specific geographic locations, or on containes being loaded or unloaded at seaports. This new section also allows the Secretary to exclude State expenditures for federally sponsored demonstration or pilot programs in calculating a State's average expenditures. This new section also provides that the Secretary should not approve a plan that provides for funds to be used for traffic safety enforcement, unless the State certifies in the plan that the traffic enforcement will be coupled with an appropriate form of commercial vehicle safety inspection.

In addition, this new section revises the maintenance of effort requirements for approval of a State plan. Specifically, a plan cannot be approved unless the Secretary finds the estimated aggregate expenditures of State funds, exclusive of Federal funds and State matching funds, for commercial motor vehicle safety programs is maintained at a level which does not fall below the estimated average level for the State's previous 3 full fiscal years. In calculating the three-year average sums specified in the legislation, States should use expenses based on similar criteria and accounting for program activities that were used to calculate the previous maintenance-of-effort level. FHWA should allow States to calculate State matching expenses in the same manner as allowed under prior reauthorizations.

This new section also requires the Secretary to prepare a written evaluation every 3 years of each State's performance under MCSAP. In determiing whether a State's plan provides satisfactory assurances that the State will conduct effecitve activities in the areas of traffic enforcement, CDL enforcement, impaired driving

enforcement, and drug interdiction, the Secretary shall take into acount the relative size of the State's allocation, the need for enforcement activity in that State, and the number of available enforcement personnel to be provided to the State for the conduct of these activities. Additionally, the Secretary is given authority to withdraw approval of a State plan after providing an opportunity for the State to comment, whenever the Secretary finds a plan is not being followed, or has become inadequate to ensure enforcement in the areas of commercial motor vehicle and traffic safety, and weight and drug enforcement. A State also may seek judicial review of a notice of withdrawal of approval in the appropriate U.S. Court of Appeals.

This new section also calls for coordination and consultation between the State motor vehicle agency preparing the State's MCSAP plan and the State's officials who submit its section 402 highway safety plan, as well as with representatives of affected industries. This new section also requires the Secretary to reimburse eligible States up to 80 percent of the costs of developing and implementing MCSAP.

Since the start of MCSAP, the FHWA has funded all major grants on a cost-shared basis, with the FHWA paying 80 percent and the participating States contributing 20 percent. Although this new section allows some flexibility up to the 80-percent level, the Committee does not foresee any reason why the FHWA should change the current percentage share of its contribution to MCSAP grants, since the authorization levels provided in the bill constitute a substantial increase in the amount of funding for MCSAP. Moreover, to ensure that Federal dollars do not replace State funds, the Committee has strengthened and revised the maintenance of effort requirements. Each fiscal year, this new section allows the Secretary to deduct up to 1.25 percent of the funds available for the administration of MCSAP, of which 75 percent is to be used for the training of non-Federal employees and development of training material. In order for its plan to be approved, a State must maintain a level of motor carrier safety expenditures which does not fall below an average of the previous 3 fiscal years, exclusive of Federal funds and State matching funds required to receive Federal funds. Funds made available to a State are to remain available for the fiscal year in which they were allocated and one succeeding fiscal year. If not expended by a State during those 2 years, the Secretary is to reallocate these funds. Funding for MCSAP is set at levels not to exceed $70 million in fiscal year 1993, $75 million in fiscal year 1994, $80 million in fiscal year 1995, and $85 million in fiscal year 1996.

Funding is increased to take into account inflationary costs that will raise the cost of MCSAP's current inspection and audit work. In addition, the new section's funding level recognizes the need for increased traffic-related enforcement efforts (not less than $7.5 million to be spent for this purpose annually, beginning in fiscal year 1993). The new section requires that each of the States use MCSAP funds to improve their existing traffic safety enforcement programs affecting operators of commercial motor vehicles, and therefore, each of the States should receive an appropriate portion of the earmarked funds. A range of expenses related to traffic enforcement

would be reimbursable, including training expenses for road troopers to allow them to become proficient in conducting motor carrier inspections and salary expenses related to enforcing traffic regulations, laws, and rules pertaining to commercial vehicle operators, provided this enforcement is coupled with an appropriate form of a motor carrier safety inspection.

Additional funding also will be required to conduct additional CDL checks, and equipment to do those checks with not less than $1.5 million to be spent on these efforts). In addition, between $500,000 and $2 million would be spent on research and development in order to ensure that new technologies, such as computerized data bases on drivers and vehicles, are utilized in MCSAP enforcement. No particular amount is set aside for increased weight enforcement. The new section also requires that not less than $350,000 in each fiscal year be spent on public education aimed at helping the motoring public share the road wisely with trucks and buses.

In this new section, the definition for the term "commerce" is: trade, traffic, and transportation within the jurisdiction of the United States between a place in a State and a place outside the State (including a place outside the United States); and trade, traffic, and transportation in the United States which affects any trade, traffic, and transportation described above.

The term "commercial motor vehicle" means any self-propelled or towed vehicle used on highways in commerce to transport passengers or property if the vehicle: (1) has a gross vehicle weight rating of 10,001 or more pounds: (2) is designed to transport more than 15 passengers, including the driver; or (3) is used in the transportation of materials found by the Secretary to be hazardous for the purposes of the Hazardous Materials Transportation Act (49 App. U.S.C. 1801 et seq.) and are transported in a quantity requiring placarding under regulations issued by the Secretary under that Act.

The term "controlled substance" has the meaning such term has under section 102(b) of the Controlled Substances Act (21 U.S.C. 802(b)).

The term "State" means any one of the 50 States, the District of Columbia, American Samoa, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, Guam, or the Virgin Islands.

Finally, section 2(b) of the bill amends the existing MCSAP provisions of the Surface Transportation Assistance Act of 1982. Under that amendment, funding of $65,000,000 is allocated for fiscal year 1982 and is not subject to the new State plan requirements. A state may, however, resubmit its FY 1992 State enforcement plans and seek reimbursement for any of the new activities required in FY 1993.

SECTION 3—NEW FORMULA FOR ALLOCATION OF FUNDS

This section requires that the Secretary, within 6 months after enactment of the bill, develop an improved formula and process for allocating MCSAP funds which considers providing incentives for

innovative cost-effective programs to promote commercial motor vehicle and hazardous materials transportation safety.

SECTION 4—VIOLATIONS OF OUT-OF-SERVICE ORDERS

Section 4 amends the Commercial Motor Vehicle Safety Act of 1986 to increase the effectiveness of a requirement added by the Motor Carrier Safety Act of 1990, by requiring DOT to write regulations providing a minimum fine of $1,000 and a disqualification of 90 days for any driver who drives away from a safety inspection without fixing a violation after the driver's vehicle is placed out of service. DOT's regulations for a second violation of this type, in addition to a minimum fine of $1,000, would have to set a penalty of driver disqualification for a period of 1 to 5 years. This section also requires that DOT's regulations subject any motor carrier that required a driver to violate an out-of-service order to a civil penalty of up to $10,000.

SECTION 5—INTRASTATE COMPATIBILITY

Section 5 would require a DOT rulemaking on compatibility between interstate and intrastate truck safety rules. Specifically, the rulemaking would establish tolerance guidelines that clearly delineate what is a compatible State safety rule. These guidelines should be written to give States maximum flexibility consistent with safety. Once formulated, these guidelines would have to be applied uniformly by DOT.

This provision is a compromise between State MCSAP administrators (who are concerned about the difficulty of getting State legislators to agree to strengthen intrastate truck safety rules) and DOT (which wants the safety of intrastate trucking operations improved). It also should be noted that the ATA supports greater compatibility because one set of rules eliminates compliance problems for its member companies.

SECTION 6—ENFORCEMENT OF BLOOD ALCOHOL CONCENTRATION LIMITS

Under the Commercial Motor Vehicle Safety Act of 1986, DOT was required to establish a maximum blood alcohol concentration standard for commercial drivers. The maximum was established at .04 percent. Section 6 would require DOT to initiate, within 3 months of the bill's enactment, and complete, within 12 months after enactment, a model program to enforce the .04 standard.

SECTION 7—FHWA POSITIONS

Section 7 authorizes the creation of two additional positions at FHWA to help implement the purposes of the bill.

SECTION 8—DRUG-FREE TRUCK STOPS

Section 8(a) provides that this section may be cited as the "Drug Free Truck Stop Act."

Section 8(b) states congressional findings on the enormous threat that the illegal use of controlled substances by operators of commercial motor vehicles poses to motorists and their passengers on the Nation's roadways. This subsection also includes the finding that the distribution of these substances as indicated by numerous

studies, congressional hearings and investigations is particularly prevalent around roadside truckstops and roadside rest areas.

Section 8(c) adds a new section to the Controlled Substances Act (21 U.S.C. 801 et seq.) by inserting after section 408 a new section 409, entitled "Transportation Safety Offenses." New section 409(a) provides that any person who violates section 401(a)(1) or section 416 of that Act by distributing or possessing with intent to distribute a controlled substance in or on, or within 1,000 feet of, a truck stop or safety rest area would be subject to a maximum term of imprisonment, fine, or term of supervised release for a first offense that is twice that authorized by section 401(b). A term of imprisonment under this section shall not be less than 1 year. Mandatory minimum sentencing under this section does not apply to offenses involving 5 grams or less of marijuana.

New section 409(b) specifies that after a prior conviction under subsection (a) which has become final, a person who again violates section 401(a)(1) or section 416 of the Controlled Substances Act shall be subject to the greater of (1) a term of imprisonment of not less than 3 years and not more than life imprisonment, or (2) three times the maximum punishment authorized by section 401(b) for the first offense.

New section 409(c) would prohibit the suspension or probation of any sentence imposed under subsection (b). An individual convicted under subsection (b) also would be required to serve a minimum sentence prior to being eligible for parole.

New section 409(d) uses the term "safety rest area" as it is defined in part 752 of title 23 of the Code of Federal Regulations. According to this section, "truck stop" means any facility (including an adjacent parking lot) which provides fuel and/or service to any commercial motor vehicle operating in commerce as defined in section 12909(3) of the Commercial Motor Vehicle Safety Act of 1986 and that is located adjacent to or within 2,500 feet of the Interstate and Defense System or the Federal-Aid Primary System.

Section 8(d) would require the U.S. Sentencing Commission, pursuant to its authority under section 994 of title 28 of the U.S. Code, and section 21 of the Sentencing Act of 1987, to promulgate or amend sentencing guidelines for a defendant convicted of violating new section 409 of the Controlled Substances Act to provide that a sentence is two levels greater than the level that would have been assigned for the underlying controlled substance offense and not less than level 26. This section also specifies that if the sentencing guidelines are amended after the effective date of this section, the Sentencing Commission should use the instruction in paragraph (1) to achieve a comparable result. These offenses only would be subject to one enhancement as found under the guidelines.

SECTION 9—IMPROVED BRAKE SYSTEMS FOR COMMERCIAL MOTOR VEHICLES

Section 9(a) would amend section 9107 of the Truck and Bus Safety and Regulatory Reform Act of 1988 by requiring that a rulemaking be initiated by July 1, 1991, and completed by April 1, 1992, on the need to adopt improved braking performance standards for commercial motor vehicles, including an examination of

antilock systems. This proceeding is to take into account the need for enforcement of any rule adopted pursuant to this section.

SECTION 10—COMPLIANCE REVIEW PRIORITY

The Congress has created an information management system, known as SAFETYNET, to support NCSAP to ensure that its resources can be concentrated on unsafe motor carriers. Section 10 requires the Secretary to give priority for a compliance review to those motor carriers that SAFETYNET indicates have drivers who are engaging in a pattern of traffic and safety rule violations.

SECTION 11—REPORT ON TRAINING OF DRIVERS

Section 11 requires that DOT report to Congress on the effectiveness of efforts of the private sector to ensure adequate training of entry-level drivers. The report should include recommendations on the desirability of establishing mandatory Federal training requirements for entry-level drivers.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 23, UNITED STATES CODE

Chapter 4 of that title

Sections 401 through 410 * * *

§ 411. Motor carrier safety assistance program

(a) GRANTS.—The Secretary is authorized to make grants to eligible States for the development or implementation, or both, of programs for—

(1) the enforcement of Federal rules, regulations, standards, and orders applicable to commercial motor vehicle safety (including vehicle size and weight requirements and commercial motor vehicle alcohol and controlled substances awareness and enforcement, including interdiction of illegal shipments), or compatible State rules, regulations, standards, and orders; and

(2) effective enforcement of State or local traffic safety laws and regulations designed to promote the safe operation and driving of commercial motor vehicles.

A State shall be eligible to receive grants under this section only if the State has a plan approved by the Secretary under subsection (b).

(b) STATE PLANS.—

(1) SUBMISSION.—The Secretary shall formulate procedures for a State to submit annually a plan where the State agrees to adopt, and to assume responsibility for enforcing—

(A) Federal rules, regulations, standards, and orders applicable to commercial motor vehicle safety (including vehicle size and weight requirements and commercial motor ve-

hicle alcohol and controlled substances awareness and enforcement, including interdiction of illegal shipments), or compatible State rules, regulations, standards, and orders; and

(B) State and local traffic safety laws and regulations designed to promote the safe operation and driving of commercial motor vehicles.

(2) APPROVAL.—Subject to paragraph (3), a State plan submitted under paragraph (1) shall be approved by the Secretary if, in the Secretary's judgment, the plan is adequate to promote the objectives of this section, and the plan—

(A) designates the State motor vehicle safety agency responsible for administering the plan;

(B) ensures that the State motor vehicle safety agency and other State or local agencies participating in the plan have or will have the legal authority, resources, and qualified personnel necessary for administering the plan;

(C) ensures that the State will devote adequate funds for administering the plan;

(D) provides a right of entry and inspection to carry out the plan and provides that the State will grant maximum reciprocity for inspections conducted pursuant to the North American Inspection Standard, through the use of nationally accepted system allowing ready identification of previously inspected commercial motor vehicles;

(E) provides that the State motor vehicle safety agency will adopt uniform reporting requirements and use uniform forms for recordkeeping, inspections, and investigations, as may be established and required by the Secretary;

(F) provides that all required reports be submitted to the State motor vehicle safety agency and that the agency make the reports available to the Secretary, upon request;

(G) ensures State participation in motor carrier information systems, including data bases containing data and information on drivers, vehicle inspections, driver operating compliance with applicable traffic safety laws and regulations, vehicle safety and compliance reviews, traffic accidents, and the weighting of vehicles;

(H) ensures that commercial motor vehicle size and weight inspection activities will not diminish the effectiveness of other safety initiatives;

(I) gives satisfactory assurances that the State will conduct effective activities—

(i) to remove impaired commercial motor vehicle drivers from our Nation's highways through adequate enforcement of regulations on the use of alcohol and controlled substances and by ensuring ready roadside access to alcohol detection and measuring equipment, and to provide an appropriate level of training to its Motor Carrier Safety Assistance Program officers and employees on the recognition of drivers impaired by alcohol or controlled substances;

(ii) to promote enforcement of the requirements relating to the licensing of commercial motor vehicle driv-

ers, especially including the checking of the status of commercial driver's licenses;

(iii) to ensure adequate enforcement of State or local traffic safety laws and regulations that affect commercial motor vehicle safety; and

(iv) to improve enforcement of hazardous materials transportation regulations by encouraging more inspections of shipper facilities affecting highway transportation and more comprehensive inspections of the loads of commercial motor vehicles transporting hazardous materials;

(J) gives satisfactory assurances that the State will promote—

(i) effective interdiction activities affecting the transportation of controlled substances by commercial motor vehicle drivers and to provide training on appropriate strategies for carrying out such interdiction activities; and

(ii) effective use of trained and qualified officers and employees of political subdivisions or local governments, under the supervisions and direction of the State motor vehicle safety agency, in the enforcement of regulations affecting commercial motor vehicle safety and hazardous materials transportation safety; and

(K) seeks to ensure that fines imposed and collected by the State will be reasonable and appropriate and provides that, to the maximum extent practicable, the State will seek to implement into law and practice the recommended fine schedule published by the Commercial Vehicle Safety Alliance.

(3) ADDITIONAL PLAN REQUIREMENTS.—

(A) SAFETY AND DRUG ENFORCEMENT.—The Secretary shall not approve a State plan unless the plan provides that the estimated aggregate expenditure of funds of the State and its political subdivisions for commercial motor vehicle safety (including commercial motor vehicle alcohol and controlled substances awareness and enforcement, including interdiction of illegal shipments), exclusive of Federal funds and State matching funds required to receive Federal funding, will be maintained at a level that does not fall below the estimated average level of such aggregate expenditure for the State's previous three full fiscal years. In estimating such average level, the Secretary may allow the State to exclude State expenditures for federally sponsored demonstration or pilot projects.

(B) WEIGHT.—The Secretary shall not approve a State plan unless the plan provides that the estimated aggregate expenditure of funds of the State and its political subdivisions for commercial motor vehicle size and weighing activities, exclusive of Federal funds, will be maintained at a level that does not fall below the estimated average level of such aggregate expenditure for the State's previous three full fiscal years. In order to be authorized to use funds under this section to enforce commercial motor vehicle size

and weight requirements, a State in its State plan submitted under this subsection shall certify that such size and weight activities will be coupled with an appropriate form of commercial motor vehicle safety inspection and will be directly related to a specific commercial motor vehicle safety problem in that State, in particular that funds for size and weight enforcement activities will be—

(i) conducted at locations other than fixed weight facilities;

(ii) used to measure or weigh vehicles at specific geographical locations (such as steep grades or mountainous terrains), where the weight of a vehicle can significantly affect the safe operation of that vehicle; or

(iii) used at sea ports of entry into and exit from the United States, with a focus on intermodal shipping containers.

(C) TRAFFIC SAFETY ENFORCEMENT.—The Secretary shall not approve a State plan that provides for funds received under this section to be used to enforce traffic safety regulations applicable to commercial motor vehicles, unless the State certifies in the plan that such traffic safety enforcement will be coupled with an appropriate form of a commercial motor vehicle safety inspection.

(D) MAINTENANCE OF EFFORT.—The Secretary shall not approve any plan under this section which does not provide that the estimated aggregate expenditure of funds of the State and its political subdivisions, exclusive of Federal funds and State matching funds required to receive Federal funding, for commercial motor vehicle safety programs, including an estimate of expenditure for traffic enforcement activities that were coupled with commercial motor vehicle safety inspections, will be maintained at a level which does not fall below the estimated average level of such expenditure for the State's previous three full fiscal years. In estimating such average level, the Secretary may allow the State to exclude State expenditures for federally sponsored demonstration or pilot programs.

(3) CONTINUING EVALUATION; WITHDRAWAL OF APPROVAL; JUDICIAL REVIEW.—

(A) EVALUATION.—The Secretary shall make a continuing evaluation of the manner in which each State is carrying out its State plan, based upon reports submitted by the State motor vehicle safety agency and upon the Secretary's own inspection. A written statement of the evaluation shall be prepared every three years, the first of which shall be completed within three years after the date of enactment of this section.

(B) WITHDRAWAL OF APPROVAL.—After providing a State with notice and an opportunity to comment, whenever the Secretary finds that a State plan is not being followed, or has become inadequate to ensure the enforcement of—

(i) Federal rules, regulations, standards, or orders applicable to commercial motor vehicle safety (including vehicle size and weight requirements and commercial

motor vehicle alcohol and controlled substances awareness and enforcement, including interdiction of illegal shipments), or compatible State rules, regulations, standards, and orders, and

(ii) State or local traffic safety laws and regulations applicable to commercial motor vehicles,

the Secretary shall notify the State that approval of the State plan is being withdrawn and shall specify the Secretary's reasons for such withdrawal. The plan shall cease to be an approved plan upon receipt by the State of the notice of withdrawal, and the Secretary shall permit the State to modify and resubmit the plan in accordance with this subsection.

(C) JUDICIAL REVIEW.—A State may seek judicial review of notice of withdrawal of approval, pursuant to chapter 7 of title 5, United States Code, in the appropriate United States Court of Appeals. The State may retain jurisdiction in any administrative or judicial enforcement proceeding commenced before the withdrawal of the approval of the State plan, if the issues involved do not directly relate to the reasons for the withdrawal of approval.

(4) COORDINATION OF SAFETY PLANS.—The State motor vehicle safety agency shall coordinate the plan prepared under this subsection, with the highway safety plan developed under section 402 of this title. Such coordination shall include consultation with the Governor's Highway Safety Representative and representatives of affected industries to promote effective implementation of the purposes of this section.

(c) FEDERAL SHARE OF COSTS.—By grants authorized under this section, the Secretary shall reimburse a State an amount not to exceed 80 percent of the costs incurred by that State in the development or implementation, or both, of programs as described under subsection (a). In determining such costs incurred by the State, the Secretary shall include in-kind contributions by the State.

(d) ALLOCATIONS.—

(1) DEDUCTION FOR ADMINISTRATION.—On October 1 of each fiscal year, or as soon thereafter as is practicable, the Secretary may deduct, for administration of this section for that fiscal year, not to exceed 1.25 percent of the funds available for that fiscal year. At least 75 percent of the funds so deducted for administration shall be used for the training of non-Federal employees, and the development of related training materials, to carry out the purposes of this section.

(2) ALLOCATION CRITERIA.—On October 1 of each fiscal year, or as soon thereafter as is practicable, the Secretary, after making the deduction authorized by paragraph (1), shall allocate, among the States with plans approved under subsection (b), the available funds for that fiscal year, pursuant to criteria established by the Secretary; except that the Secretary, in allocating funds available for research, development, and demonstration under subsection (h)(3) or for public education under subsection (h)(4), may designate specific eligible States among which to allocate such funds.

(e) AVAILABILITY, RELEASE, AND REALLOCATION OF FUNDS.—Funds made available to carry out this section shall remain available for obligation by the Secretary until expended. Allocations to a State shall remain available for expenditure in that State for the fiscal year in which they are allocated and one succeeding fiscal year. Funds not expended by a State during those two fiscal years shall be released to the Secretary for reallocation. Funds made available under part A of title IV of the Surface Transportation Assistance Act of 1982 (49 App. U.S.C. 2301 et seq.) which, as of October 1, 1992, were not obligated shall be available for reallocation and obligation under this section.

(f) OBLIGATION OF FUNDS.—Approval by the Secretary of a grant to a State under this section shall be deemed a contractual obligation of the United States for payment of the Federal share of the costs incurred by that State in development or implementation, or both, of programs as described under subsection (a).

(g) PAYMENTS TO STATES.—The Secretary shall make payments to a State of costs incurred by it under this section, as reflected by vouchers submitted by the State. Payments shall not exceed the Federal share of costs incurred as of the date of the vouchers.

(h) FUNDING.—

(1) AVAILABILITY.—To incur obligations to carry out the purposes of this section, there shall be available to the Secretary out of the Highway Trust Fund other than the Mass Transit Account not to exceed $70,000,000 for fiscal year 1993, $75,000,000 for fiscal year 1994, $80,000,000 for fiscal year 1995, and $85,000,000 for fiscal year 1996.

(2) ENFORCEMENT.—Of funds made available under this subsection for any fiscal year, not less than $7,500,000 each year shall be used to pay for traffic enforcement activities focused exclusively upon commercial motor vehicle drivers, if such activities are coupled with an appropriate type of inspection for compliance with the commercial motor vehicle safety regulations. Of the funds made available under this subsection for each of fiscal years 1993 and 1994, not less than $1,500,000 shall be used to increase enforcement of the licensing requirements of the Commercial Motor Vehicle Safety Act of 1986 (49 App. U.S.C. 2701 et seq.) by Motor Carrier Safety Assistance Program officers and employees, specifically including the cost of purchasing equipment for and conducting inspections to check the current status of licenses issued pursuant to that Act.

(3) RESEARCH AND DEVELOPMENT.—Not less than $500,000 but not more than $2,000,000 of the funds made available under this subsection for any fiscal year shall be available for research, development, and demonstration of technologies, methodologies, analyses, or information systems designed to promote the purposes of this section and which are beneficial to all jurisdictions. Such funds shall be announced publicly and awarded competitively, whenever practicable, to any of the eligible States for up to 100 percent of the States costs, or to other persons as determined by the Secretary. The development of the model program and procedures required under section 6 of the Motor Carrier Safety Assistance Program Reauthorization Act of 1991 shall be funded under this paragraph.

(4) PUBLIC EDUCATION.—Not less than $350,000 of the funds made available under this subsection for any of fiscal year shall be allocated among specified eligible States to help educate the motoring public on how to share the road safely with commercial motor vehicles. In carrying out such education activities, the State shall consult with appropriate industry representatives.

(i) DEFINITIONS.—As used in this section, the term—

(1) "commerce" means—

(A) trade, traffic, and transportation within the jurisdiction of the United States between a place in a State and a place outside of such State (including a place outside the United States); and

(B) trade, traffic, and transportation in the United States which affects any trade, traffic, and transportation described in subparagraph (A).

(2) "commercial motor vehicle" means any self-propelled or towed vehicle used on highways in commerce to transport passengers or property—

(A) if the vehicle has a gross vehicle weight rating of 10,001 or more pounds;

(B) if the vehicle is designed to transport more than 15 passengers, including the driver; or

(C) if the vehicle is used in the transportation of materials found by the Secretary to be hazardous for the purposes of the Hazardous Materials Transportation Act (49 App. U.S.C. 1801 et seq.) and are transported in a quantity requiring placarding under regulations issued by the Secretary under that Act.

(3) "controlled substance" has the meaning such term has under section 102(b) of the Controlled Substances Act (21 U.S.C. 802(b)).

(4) "State" means any one of the 50 States, the District of Columbia, American Samoa, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, Guam, or the Virgin Islands.

SURFACE TRANSPORTATION ASSISTANCE ACT OF 1982

Section 402 of that Act

GRANTS TO STATES

SEC. 402. (a) through (d) * * *

(e) After the date of enactment of this subsection, a State with a plan approved under subsection (b)(1) of this section may be reimbursed by the Secretary under this part for expenditures in enforcing State or local traffic laws or regulations designed to promote the safe operation and driving of commercial motor vehicles, or for activities described under section 411(b)(2)(I) and (J) of title 23, United States Code, or both.

Section 404 of that Act

AUTHORIZATIONS

SEC. 404. (a)(1) * * *

(2) Subject to section 9503(c)(1) of the Internal Revenue Code of 1986, there shall be available to the Secretary to incur obligations to carry out section 402 of this title out of the Highway Trust Fund (other than the Mass Transit Account), $50,000,000 per fiscal year for each of fiscal years 1987 [and 1988], *1988,* and $60,000,000 per fiscal year for each of fiscal years 1989, 1990, and 1991, *and $65,000,000 per fiscal year for fiscal year 1992.*

(b) through (f) * * *

COMMERCIAL MOTOR VEHICLE SAFETY ACT OF 1986

Section 12008 of that Act

SEC. 12008. FEDERAL DISQUALIFICATIONS.

(a) through (f) * * *

(g) VIOLATION OF OUT-OF-SERVICE ORDERS.—

(1) REGULATIONS.—The Secretary shall issue regulations establishing sanctions and penalties relating to violations of out-of-service orders by persons operating commercial motor vehicles.

(2) MINIMUM REQUIREMENTS.—Regulations issued under paragraph (1) shall, at a minimum, require that—

(A) any operator of a commercial motor vehicle who is found to have committed a first violation of an out-of-service order shall be disqualified from operating such a vehicle for a period of not less than 90 days and shall be subject to a civil penalty of not less than $1,000;

(B) any operator of a commercial motor vehicle who is found to have committed a second violation of an out-of-service order shall be disqualified from operating such a vehicle for a period of not less than 1 year and not more than 5 years and shall be subject to a civil penalty of not less than $1,000; and

(C) any employer that knowingly allows, permits, authorizes, or requires an employee to operate a commercial motor vehicle in violation of an out-of-service order shall be subject to a civil penalty of not more than $10,000.

(3) DEADLINES.—The regulations required under paragraph (1) shall be developed pursuant to a rulemaking proceeding initiated within 60 days after the date of enactment of this subsection and shall be issued not later than 12 months after such date of enactment.

Section 12009 of that Act

SEC. 12009. REQUIREMENTS FOR STATE PARTICIPATION.

(a) IN GENERAL.—In order not to have funds withheld under section 12001 from apportionment, each State shall comply with the following requirements:

(1) through (20) * * *

(21) OUT OF SERVICE REGULATIONS.—The State shall adopt and enforce any regulations issued by the Secretary under section 12008 (d)(1) *and (g)(1).*

(b) through (c) * * *

TRUCK AND BUS SAFETY AND REGULATORY REFORM ACT OF 1988

Section 9101 of that Act

SEC. 9101. SHORT TITLE; TABLE OF CONTENTS.

(a) * * *

(b) TABLE OF CONTENTS.—

Sec. 9101. Short title; table of contents.
Sec. 9102. Commercial zone exemption.
Sec. 9103. Hours of service.
Sec. 9104. Improved compliance with hours of service regulations.
Sec. 9105. Biometric identification system.
Sec. 9106. Emergency flares.
Sec. 9107. [Report on improved] *Improved* brake systems for commercial motor vehicles.

* * * * * * *

Section 9107 of that Act

SEC. 9107. [REPORT ON] IMPROVED BRAKE SYSTEMS FOR COMMERCIAL MOTOR VEHICLES.

(a) REPORT.—Not later than January 30, 1991, the Secretary shall submit to Congress a report on whether or not commercial motor vehicles operating on any Federal-aid highway system should be equipped with improved brakes and brake systems in order to enhance the safe operation of such vehicles. Such report shall include an examination of available information and data on antilock systems, means of improving brake compatability, and methods of ensuring the effectiveness of brake timing and the results of any field testing conducted by the Department of Transportation on brakes and brakes systems for commercial motor vehicles.

(b) RULEMAKING PROCEEDING.—The Secretary shall initiate a rulemaking proceeding not later than July 1, 1991. Such proceeding shall concern the need to adopt methods for improving braking performance standards for commercial motor vehicles and shall include an examination of antilock systems, means of improving brake compatibility, and methods of ensuring effectiveness of brake timing. Any rule which the Secretary determines to issue as a result of such proceeding regarding improved brake performance shall take into account the necessity for effective enforcement of such a rule. The Secretary shall conclude the proceeding required by this subsection not later than April 1, 1992.

CONTROLLED SUBSTANCES ACT

Part D of that Act

PART D—OFFENSES AND PENALTIES

PROHIBITED ACTS A—PENALTIES

SEC. 401. (a) * * *

(b) Except as otherwise provided in section *409,* 418, 419, or 420, any person who violates subsection (a) of this section shall be sentenced as follows:

(1)(A) In the case of a violation of subsection (a) of this section involving—

(i) through (viii) * * *

such person shall be sentenced to a term of imprisonment which may not be less than 10 years or more than life and if death or serious bodily injury results from the use of such substance shall be not less than 20 years or more than life, a fine not to exceed the greater of that authorized in accordance with the provisions of title 18, United States Code, or $4,000,000 if the defendant is an individual or $10,000,000 if the defendant is other than an individual, or both. If any person commits such a violation after a prior conviction for a felony drug offense has become final, such person shall be sentenced to a term of imprisonment which may not be less than 20 years and not more than life imprisonment and if death or serious bodily injury results from the use of such substance shall be sentenced to life imprisonment, a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18, United States Code, or $8,000,000 if the defendant is an individual or $20,000,000 if the defendant is other than an individual, or both. If any person commits a violation of this subparagraph or of section *409,* 418, 419, or 420 after two or more prior convictions for a felony drug offense have become final, such person shall be sentenced to a mandatory term of life imprisonment without release and fined in accordance with the preceding sentence. * * *

(B) through (D) * * *

(2) through (6) * * *

(c) through (g) * * *

SEC. 402 through SEC. 408. * * *

TRANSPORTATION SAFETY OFFENSES

SEC. 409. (a) Any person who violates section 401(a)(1) or section 416 by distributing or possessing with intent to distribute a controlled substance in or on, or within one thousand feet of, a truck stop or safety rest area is (except as provided in subsection (b)) subject to—

(1) twice the maximum punishment authorized by section 401(b); and

(2) at least twice any term of supervised release authorized by section 401(b) for a first offense.

Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsec-

tion shall be not less than one year. The mandatory minimum sentencing provisions of this paragraph shall not apply to offenses involving 5 grams or less of marihuana.

(b) Any person who violates section 401(a)(1) or section 416 by distributing or possessing with intent to distribute a controlled substance in or on, or within one thousand feet of, a truck stop or a safety rest area after a prior conviction or convictions under subsection (a) have become final is punishable—

(1) by the greater of (A) a term of imprisonment of not less than three years and not more than life imprisonment or (B) three times the maximum punishment authorized by section 401(b); and

(2) at least three times any term of supervised release authorized by section 401(b) for a first offense.

(c) In the case of any sentence imposed under subsection (b), imposition or execution of such sentence shall not be suspended and probation shall not be granted. An individual convicted under subsection (b) shall not be eligible for parole under chapter 311 of title 18 of the United States Code until the individual has served the minimum sentence required by such subsection.

(d) For purposes of this section—

(1) the term "safety rest area" has the meaning given that term in part 752 of title 23, Code of Federal Regulations, as in effect on the date of enactment of this section; and

(2) the term "truck stop" means any facility (including any parking lot appurtenant thereto) that has the capacity to provide fuel or service, or both, to any commercial motor vehicle as defined under section 12019(6) of the Commercial Motor Vehicle Safety Act of 1986, operating in commerce as defined in section 12019(3) of such Act and that is located adjacent to or within 2,500 feet of the Interstate and Defense System or the Federal-Aid Primary System.

○